



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
James Alan STROTHMAN

Application No.: 09/603,339

Group Art Unit: 2623

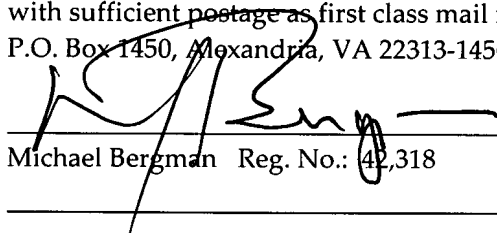
Filed: June 26, 2000

Examiner: SHANG, Annan Q.

For: METHOD AND APPARATUS FOR USING
DVD SUBPICTURE INFORMATION IN A
TELEVISION RECEIVER

Certificate of Mailing under 37 C.F.R. §1.8

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Michael Bergman Reg. No.: 42,318

SUBMISSION OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mailstop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a Pre-Appeal Brief Request for Review in the above-captioned application. Applicant respectfully requests pre-appeal review of the pending rejections. The review is requested for the reasons stated in the attached Pre-Appeal Brief.

This request is being filed with a Notice of Appeal.

A petition for a one (1) month extension of time is transmitted herewith, along with the requisite fee. If required, the Commissioner is hereby petitioned, under 37 C.F.R. § 1.136 (a), to extend the time for filing a response to an outstanding Office Action, or any communication filed in this application by this firm, by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 07-0832 of Thomson Inc., under Order No.: 88,878.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (617) 868-8871 in Cambridge, Massachusetts.

Dated: NOV 26 2007

Respectfully submitted,

By 

Michael Bergman

Registration No.: 42,318

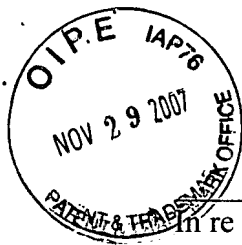
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The final Office Action dated July 26, 2007 maintains the rejection of claims 1-3, 5, 6, 9-17, 19 and 20 as being unpatentable over United States patent number 6,580,870 to Kanazawa et al. (*hereinafter* Kanazawa) in view of United States patent number 6,678,006 to Velez et al. (*hereinafter* Velez) and in further view of United States patent number 6,370,323 to Adolf et al. (*hereinafter* Adolf). For the reasons set forth below, there is a clear deficiency in the prima facie case for obviousness and each of these rejections should be withdrawn.

As discussed in previous responses, the present Application relates to a system and method for transmitting, decoding and displaying data channel information in a format that permits enhanced graphics functionality. Included are a method and apparatus for using DVD sub-picture format information within an MPEG data system to provide data channel information to a receiver.

Kanazawa, Velez, and Adolf, whether taken alone or in combination, fail to disclose or suggest the features of independent claim 1 including "receiving... a DVD

subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream."

A concise description of Kanazawa is provided in provided on pages 8 and 9 of Applicant's response to the non-final office action mailed on February 21, 2007. A concise description of Adolf is provided at pages 9 and 10 of the same Response. The now-pending Office Action expressly acknowledges that Kanazawa does not teach the above-noted features of the subject claim and, in the Response filed on May 31, 2007, Applicant demonstrated that the Adolf reference also does not teach or suggest these features.

The now-pending office action relies on the Velez reference to remedy this deficiency. As is demonstrated below, however, Velez also does not disclose or suggest the features in question.

The Velez reference relates to a method and apparatus for processing DVD video data and subpicture data. According to Velez, this "is accomplished by storing a line of DVD video data and at least a partially decoded portion of DVD sub-picture data. The partially decoded DVD sub-picture data is still in an encoded format,...[o]nce stored, the DVD video data is retrieved from the memory and scaled to produce scaled video data... [which] is blended with the scaled sub-picture data to produce a video output." Abstract.

The office action proposes that the Velez description of run-length encoded data, in combination with the material in Kanazawa and Adolf, renders the invention of claim 1 obvious under 35 USC §103(a). In particular, the office action refers to figures 1-5 and column 2, line 48 to column 3, line 58 of the Velez reference to support this proposition (i.e., that Velez teaches or suggests the novel features of claim 1 including "receiving... a DVD subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream,").

Applicant respectfully disagrees with these conclusions. Specifically, Velez does not teach or suggest "receiving... a DVD subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream," (emphasis added). Rather, Velez relates to the formation of a DVD subpicture compliant bitstream using runlength encoding of data, where analysis of

repetition in the underlying data is identified and used to compress that data, and where a DVD subpicture compliant bitstream is formed of the compressed data. Accordingly, Velez states "[a]s is known, the run-length encoded data is encoded based on patterns of compressed data... and how often they repeat. As such, run-length encoding of the DVD subpicture data is done... based on how many times... [data] repeats in a given block." Column 3, lines 47-58.

Applicant respectfully submits that compression of data into a DVD subpicture compliant bitstream based on data repetition is completely different from "receiving... a DVD subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream." Indeed, the objectives and functions of the two processes are diametrically opposed. The encoding described by Velez serves to decrease duplication in the data by identifying and compressing repeated data, whereas the duplication of data is increased according to the present invention.

There is therefore no basis for the assertion of the Patent Office that the proposed combination of Kanazawa, Velez and Adolf would teach or suggest the invention as claimed. Rather, it is acknowledged that Kanazawa and Adolf together are deficient in this regard, and it is here demonstrated that Velez teaches directly away from the additional features claimed. Accordingly, claim 1 is entirely distinguishable from the references now of record, whether they are taken alone or in combination. Consequently no prima facie case of obviousness is made out and the pending rejection of claim 1 under 35 USC §103(a) over Kanazawa in view of Velez and in further view of Adolf should be withdrawn.

In light of the foregoing, the rejection of independent claim 10 should also be withdrawn. Claim 10 recites, in pertinent part, "means for receiving a bitstream comprising an MPEG compliant program bitstream and a DVD subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream," (emphasis added). It is clear upon inspection that the features of claim 10 emphasized above correspond to those which have been shown in this paper to be absent from the references of record. As demonstrated above, the proposed combination of Kanazawa, Velez and Adolf, whether taken alone or in combination, do not teach or suggest a "bitstream, wherein a portion of the DVD subpicture compliant

bitstream is repeated in said received bitstream." Accordingly, for at least the reasons given above in relation to claim 1, the rejection of claim 10 under 35 USC §103(a) over Kanazawa in view of Velez and in further view of Adolf should be withdrawn.

In like fashion the rejection of independent claim 19 should also be withdrawn. Claim 19 recites, in pertinent part, "a DVD subpicture compliant bitstream, wherein a portion of the DVD subpicture compliant bitstream is repeated in said received bitstream," (emphasis added). It is clear, in light of the foregoing, that at least these features of claim 19 are not taught or suggested by the proposed combination of Kanazawa with Velez and Adolf. Accordingly, for at least the reasons given above in relation to claim 1, the rejection of claim 19 under 35 USC §103(a) over Kanazawa in view of Velez and in further view of Adolf should be withdrawn.

As to the remaining claims, 2-3, 5, 6, 9, 11-17 and 20, these depend respectively, directly or indirectly, from independent claims 1, 10 and 19, and incorporate the respective features thereof.

United States patent number 6,344,836 to Suzuki (*hereinafter* Suzuki) is offered in relation to further features of claim 12 and 13. However even assuming, *arguendo*, that the Suzuki reference teaches the alleged features, it still fails to cure the defects of Kanazawa, Velez and Adolf as applied to claims 1, 10 and 19 above. Consequently, for at least the reasons given above in relation to claims 1, 10 and 19, the rejections of claims 2-3, 5, 6, 9, 11-17 and 20 under 35 USC §103(a) should be withdrawn.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (617) 868-8870 in Cambridge, Massachusetts.

A petition for a one (1) month extension of time is transmitted herewith, along with the requisite fee. If required, the Commissioner is hereby petitioned, under 37 C.F.R. § 1.136 (a), to extend the time for filing a response to an outstanding Office Action, or any communication filed in this application by this company, by the number of months which will avoid abandonment under 37 C.F.R. § 1.135.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 07-0832 of Thomson Inc., under Order No.: 88,878.

Dated: NOV 26 2007

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents
Alexandria, VA on:

NOV 26 2007

Date